

ROBERT MICHAEL MILLER,) No. C 06-06-6341 JSW (PR)
)
 Petitioner,)
) **ORDER DISMISSING PETITION**
) **FOR A WRIT OF HABEAS**
 vs.) **CORPUS**
)
 LAURIE SMITH, Sheriff,) (Docket Nos. 2, 4, 5, 9, 11, 13)
)
 Respondent.)

The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") was signed into law on April 24, 1996. Under AEDPA, a district court must dismiss claims presented in a second or successive habeas petition challenging the same conviction and sentence raised in a previous petition. *See* 28 U.S.C. § 2244(b)(1); *Babbitt v. Woodford*, 177 F.3d 744, 745-46 (9th Cir. 1999). Additionally, a district court must dismiss any new claims raised in a successive petition unless the petitioner received an order from the

1 court of appeals authorizing the district court to consider the petition. 28 U.S.C. §
2 2244(b)(3)(A).


3 Here, the instant petition challenges the same conviction and sentence as the
4 previous petition filed in this Court in 1975. Petitioner has not presented an order from
5 the court of appeals authorizing the Court to consider these claims. Accordingly, the
6 Court must dismiss the instant petition in its entirety. Petitioner is free to seek such an
7 order from the United States Court of Appeals for the Ninth Circuit. *See*, 28 U.S.C. §
8 2244(b)(3)(A).

9 CONCLUSION

10 For the forgoing reasons, the petition for writ of habeas corpus is DISMISSED as
11 a second and successive petition. Petitioner's motions are DENIED as moot. The Clerk
12 shall terminate all motions as decided by this order, close the file and enter judgment in
13 this matter.

14 IT IS SO ORDERED.

15 DATED: April 16, 2007

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19 JEFFREY S. WHITE
20 United States District Judge
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